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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/628,718	07/28/2000	Tadayuki Sakakibara	500.38828X00	3342

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ARLINGTON, VA 22209-9889

EXAMINER

PEIKARI, BEHZAD

ART UNIT	PAPER NUMBER
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2186

10

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/628,718

Applicant(s)

SAKAKIBARA ET AL.

Examiner

B. James Peikari

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 July 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. With regard to applicant's request on page 14 of the remarks submitted with the amendment of March 1, 2004, the examiner does not have the authority to make the changes requested by applicant, including physically removing a claim for priority and certified priority document from a pending application. Furthermore, the examiner does not have the authority to enter a new priority claim into a published patent. A petition to the Director under 37 CFR 1.181 is recommended to resolve these issues.

### ***Information Disclosure Statement***

2. With regard to applicant's request on page 12 of the remarks submitted with the amendment of March 1, 2004, the information disclosure statement filed July 28, 2000 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because:

(A) The publication dates of the citations have not been included on the IDS.

Note that MPEP § 609 states:

Each foreign patent or published foreign patent application must be identified by the country or patent office which issued the patent or published the application, an appropriate document number, and the publication date indicated on the patent or published application.

(B) The IDS does not incorporate the page(s) and lines of the specification where the relevance of the foreign citations have been explained.

Note that MPEP § 609 states:

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Each information disclosure statement must further include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information listed that is not in the English language. The concise explanation may be either separate from the specification or incorporated therein with the page(s) and lines of the specification where it is incorporated being noted in the IDS.

It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Furthermore, MPEP § 609 states:

Use of form PTO-1449, "Information Disclosure Citation," or PTO/SB/08A and 08B, "Information Disclosure Statement," is encouraged as a means to provide the required list of information as set forth in 37 CFR 1.98(a)(1).

### ***Drawings***

3. The proposed drawing corrections filed on March 1, 2004 are approved by the examiner. Corrected formal drawings will be required when the application is allowed.

### ***Specification***

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

5. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification. For example, on page 6, line 22, "DRAWINGS" should replace "DRAWING".

6. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter. A further review of the specification reveals that although many of the technical aspects of the invention are understood by the examiner, the actual language of the specification is replete with errors in English idiom that appear to have arisen from direct translation of a foreign language disclosure.

***Claim Rejections - 35 USC § 102***

7. The previous rejections under 35 USC § 102 are withdrawn due to applicant's perfection of applicant's claim of priority on March 1, 2004.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

8. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tzeng et al., U.S. 5,802,576.

As explained throughout the reference, Tzeng et al. teach a cache snoop mechanism wherein a plurality of instructions may be fetched in a speculative manner, the system operating such that if a CPU request for data is received by a cache (24), a speculative fetch of a next cache line occurs and the next cache line is held ready for transfer and a hit decision will be made to determine whether that cache line address is in the cache. If it is not in the cache, the data is redirected to main memory (*column 2, lines 1-6.*)

As for the broadly claimed n-way associative cache, this limitation would have been taught by any cache (i.e., from an n=0 non-associative cache to a fully associative cache).

9. Claims 1-18 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Ramagopal et al., U.S. 6,006,317.

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As explained throughout the reference, Ramagopal et al. teach a speculative storage mechanism wherein a data is speculatively stored into a cache (60), the system operating such that if a CPU request for data is received by a cache, a speculative response is generated and transferred and a decision will be made to either send the held speculative data response to the CPU or to discard and replace the held speculative data, accordingly (*note column 4, lines 14-18*).

As for the broadly claimed n-way associative cache, this limitation would have been taught by any cache (i.e., from an n=0 non-associative cache to a fully associative cache).

#### ***Response to Amendment***

10. With regard to applicant's comments on pages 12-13 of the remarks submitted with the amendment of March 1, 2004, the application papers regrettably have no record of applicant's stated multiple discussions held with the examiner. Applicant is hereby requested to furnish the dates and nature and subject matter of each of these discussions, to clarify the file record. The examiner will compare these with his telephone log to piece together the missing communications for the record.

The reference Bauman et al., 6,457,101, has been added to the attached form PTO 892.

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***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Peikari whose telephone number is (703) 305-3824. The examiner is generally available between 8:00 am and 9:30 pm, EST, Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Kim, can be reached at (703) 305-3821.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 746-7239 (Official communications)

or:

(703) 746-7240 (for Informal or Draft communications)

or:

(703) 746-7238 (for After-Final communications)



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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA., Sixth Floor (Receptionist).



B. James Peikari  
Primary Examiner  
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4/19/04